

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

IN RE YASMIN AND YAZ (DROSPIRENONE))
MARKETING, SALES PRACTICES AND)
PRODUCTS LIABILITY LITIGATION)

3:09-md-02100-DRH-PMF

MDL No. 2100

This Document Relates to:

CATHY M. WALTON,

Plaintiff,

Case No. 3:09-cv-10217-DRH -PMF

v.

BAYER CORPORATION, BAYER
HEALTHCARE LLC, BAYER
PHARMACEUTICALS
CORPORATION, BAYER
HEALTHCARE PHARMACEUTICALS
INC., BERLEX LABORATORIES, INC.,
BERLEX, INC., JOHN DOE
MANUFACTURERS A-Z,
NIEMAN FOODS, INC., JOHN DOE
DISTRIBUTORS A-Z,

Defendants

ORDER

HERNDON, Chief Judge:

Now before the Court is Plaintiff's Motion to Strike (3:09-cv-10217, Doc. 15) Defendants' Supplement (3:09-cv-10217, Doc. 12) to Notice of Removal (3:09-cv-10217). Defendants failed to include a copy of the summonses, as required by 28 U.S.C. § 1446(a), in their Notice of Removal. On December 29, 2009 - more than 30 days after

being originally served in this case - Defendants supplemented their Notice of Removal with a copy of the summonses. Plaintiff asserts that because Defendants filed the supplement after the 30-day removal period had elapsed it is untimely and should be stricken.

The Court finds the omission of a copy of the summonses is a minor technical defect that may be cured even after the expiration of the 30-day removal period. *See e.g. Riehl v. National Mut. Ins. Co.*, 1374 F.2d 739, 742 (7th Cir. 1967) (omission of copy of complaint from removal notice was a “minor irregularity of no consequence”); *Presnell v. Cottrell, Inc.*, No. 09-cv-656, 2009 WL 4923808, *4-5 (S.D. Ill. Dec. 14, 2009) (noting that a technical defect in a notice of removal may be cured by amendment even after the 30-day removal period); *Browne v. Hartford Fire Ins. Co.*, 168 F.Supp. 796, 800 (N.D. Ill. 1959) (amendment to petition for removal after statutory time has passed may be permitted to cure technical defects). Accordingly, Plaintiff’s Motion to Strike Defendants’ Supplement to Notice of Removal is **DENIED**.

IT IS SO ORDERED.

Date: January 8, 2010

/s/ David R. Herndon

**Chief Judge
United States District Court**